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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/954,875      | 09/12/2001  | Heinz Gernhardt      | 011881-1940         | 8266             |

7590

10/21/2003

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| EXAMINER |
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NGUYEN, JOHN QUOC

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3654

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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### ***Office Action Summary***

Application No.

09/954,875

[illegible]

GERNHARDT ET AL.

**Examiner**

John Q. Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003 .
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) 4 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-23 and 25-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 4 . 6) ☐ Other: \_\_\_\_\_

Applicant's election without traverse of the species of fig. 2, claims 1-3, 5-23, and 25-30, in Paper No. 6 is acknowledged.

Claims 4 and 24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Claims 1-3, 5-23, and 25-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For clarity and/or definiteness, it appears that "bending bar" (claims 5, 6, 25, 26) should be --sensor--.

The following are not clear: "said bobbin material is sensitive" (claim 14, 19).

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above. The non-elected claims should also be similarly corrected at the same time so that the application can be allowed without delay should the generic claims become allowable.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-8, 14-16, and 19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Grundy et al (US 4546656).

Grundy et al discloses an apparatus having substantially all the claimed features including arm 20, roller 44, sensors/extensometers 28, 30, 22, 24 located in a "nominal bending portion", tubular housing 10 with stops 50 (fig. 2). The winding spindle and a drive are deemed inherent (see at least column 1, lines 14-17). It is not deemed that other elements are contacted in between since this appears to be the object of the invention (see column 1) or, alternatively, whether or not other elements (other than tension measurement equipments) are contacted in between the feeding apparatus and the roller would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as operational preference, design criteria, and space optimization.

Claims 9-12, 17, 18, 20-23, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grundy et al (US 4546656).

That the stops are adjustable to adjust the amount of maximum deflection would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as preference and design criteria, as the provision of adjustability where desired would have been obvious to a person having ordinary skill in the art.

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Relative to claim 20, duplication of parts for a multiplied effect would have been obvious to a person having ordinary skill in the art.

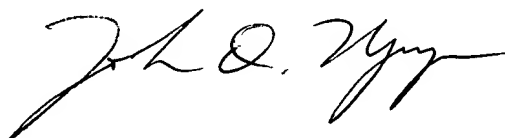
Claims 13, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grundy et al (US 4546656) in view of Canfield (US 3526130).

Canfield discloses another similar apparatus in which a traversing apparatus 33, which is old and well known in the art, is provided to distribute the strands along the winding spindle. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Grundy et al with a traversing apparatus as taught by Canfield to distribute the strands along the winding spindle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (703) 308-2689. The examiner can normally be reached on Monday-Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



John Q. Nguyen  
Primary Examiner  
Art Unit 3654

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